



DEPARTMENT OF THE NAVY
NAVAL AIR SYSTEMS COMMAND
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IN REPLY REFER TO
CCI 4275.1C
AIR-2.1.1.5
OCT 11 2005

CONTRACTS COMPETENCY INSTRUCTION 4275.1C

From: Assistant Commander for Contracts

Subj: MANAGEMENT AND APPROVAL OF CLAUSES

Ref: (a) NMCARS 5201.304, Agency Control and Compliance
Procedures
(b) FAR 52.101, Using Part 52

1. Purpose. To articulate Naval Air Systems Command (NAVAIR) contract clause policy and supplement reference (a) guidance on procedures for management and approval of standard and non-standard clauses, and reference (b) instructions for using provisions and clauses.
2. Cancellation. This instruction supersedes Contracts Group Instruction 4275.1B of 27 April 1999. Since this is a major revision, changes are not indicated.
3. Scope. This instruction applies to all NAVAIR solicitations and contracts.
4. Policy. The policy of the Department of Defense (DOD) and the Department of the Navy is to standardize the management of contract clauses by discouraging the use of non-standard clauses. This instruction provides consolidated guidance on the management, approval and use of NAVAIR standard and non-standard clauses.
5. Definitions. As used in this instruction:
 - a. A "clause" refers to both a clause and provision and means a term or condition of a solicitation/contract except as identified in NMCARS 5201.304(4)(A)(a)(1) through (7).
 - b. A "standard NAVAIR clause" is a clause that has been:
 - (1) approved by the Contracts Policy and Process Management Department, Air-2.1, for repetitive use in NAVAIR solicitations and contracts; and
 - (2) included in the NAVAIR Clausebook and in the electronic Standard Procurement System (SPS). In SPS, standard NAVAIR clauses are referred to as "local clauses."

c. A "non-standard NAVAIR clause" is a clause that has been approved for use in NAVAIR solicitations and/or contracts on a one-time or limited use basis. Non-standard clauses are not included in the NAVAIR Clausebook or SPS because these clauses are intended for use in individual acquisitions. Therefore, use of these clauses is not intended to be widespread. Non-standard clauses may be used only when they are consistent with the criteria stated in NMCARS 5201.304(4)(C), and have received the approvals detailed in this instruction.

6. NAVAIR Clausebook.

a. The NAVAIR Clausebook is a compilation of standard NAVAIR clauses, which have been reviewed by a multi-competency cross-functional team, legal counsel, and approved by AIR-2.1 for use, as applicable, in NAVAIR solicitations and contracts.

b. The NAVAIR Clausebook is published and maintained by the Contracts Policy Management Division, AIR-2.1.1, and can be reviewed and downloaded from the Naval Air Systems Command web page, at the following link:

[http://www.navair.navy.mil/doing_business/open_solicitations/c
lauses.cfm](http://www.navair.navy.mil/doing_business/open_solicitations/clauses.cfm).

c. Whenever a standard clause is modified/updated in the NAVAIR Clausebook, the clause date (noted after the clause title) will be updated. A simultaneous change of the clause in SPS will also be made. Automatic notification of the change will appear in SPS when initially logging in.

d. If, during the drafting of a solicitation or contract, a conflict is discovered between the clause language per the NAVAIR Clausebook versus the clause language provided by SPS, AIR-2.1.1 shall be contacted for guidance and resolution.

7. Policy for NAVAIR Clause Management. NAVAIR clauses will be corrected/updated, revised, or added in accordance with the following procedures:

a. Administrative Corrections/Updates. Administrative corrections/updates may be implemented immediately by AIR-2.1.1. Examples of administrative corrections/updates are: (1) typographical or referencing errors in the clauses; (2) changes to addresses or points of contact; (3) replacements of addresses with fill-ins; (4) changes required due to revisions made to the

FAR/DFARS/NMCARS; or (5) changes required due to official changes in acquisition policy that are distributed by the Office of the Under Secretary of Defense (Acquisition, Technology and Logistics) (USD (AT&L)). AIR-2.1.1 shall be notified by e-mail or phone of any clause errors and out-of date clause language or clause versions that are identified and need to be corrected or updated in the NAVAIR Clausebook and SPS.

b. Clause Revisions.

(1) Clauses may be revised to meet the needs of individual acquisitions but shall be done on an exception basis only. Revision of a clause shall not substantially change the intent of an existing clause nor shall it result in a deviation from the FAR/DFARS/NMCARS.

(2) A request for a revision to a clause shall be made in writing, include a justification and prescription for use, obtain legal concurrence from the Office of Counsel, and be approved at one level above the Procuring Contracting Officer (PCO). The approval shall be documented in a memo to the file and included in the contract file. Once approved, a new date and the word (VARIATION) will be added after the NAVAIR clause title (and number if a standard clause). A copy of the revised clause, including all documentation supporting the change, shall be forwarded to AIR-2.1.1 within three (3) working days from the date of approval. EXCEPTIONS: (a) In competitive procurements, revisions to clauses which result in a significant cost or administrative impact on offerors shall require approval in accordance with paragraph 7.d of this Instruction; (b) Revisions to any clause which may create an increased financial liability to the Navy shall require approval from AIR-2.0/AIR-2.0A. Examples of such clauses include, but are not limited to, Economic Price Adjustment (EPA) and Reopener clauses.

(3) In instances where a revision to a clause may be useful on a repetitive basis to other acquisitions throughout NAVAIR, AIR-2.1.1 will forward the proposed clause to AIR-2.1 for approval. Once approved, the revised clause will become a standard clause to be included in the NAVAIR Clausebook and SPS as a replacement for or alternate of an existing clause.

c. New NAVAIR Clauses.

(1) If a situation arises requiring contractual language not covered by existing clauses, a new clause may be proposed

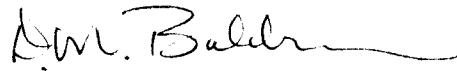
and approved provided the clause does not constitute a deviation from the FAR/DFARS/NMCARS.

(2) A request for a new clause shall be made in writing, include a justification and prescription for use, obtain legal concurrence from the Office of Counsel, and be approved at one level above the Procuring Contracting Officer (PCO). The approval shall be documented in a memo to the file and included in the contract file. Once approved, a date will be added after the title of the clause. A copy of the new clause, including all documentation supporting the change, shall be forwarded to AIR-2.1.1 within three (3) working days from the date of approval. EXCEPTIONS: (a) In competitive procurements, new clauses which result in a significant cost or administrative impact on offerors shall require approval in accordance with paragraph 7.d of this Instruction; (b) Any new clause which may create an increased financial liability to the Navy shall require approval from AIR-2.0/AIR-2.0A. Examples of such clauses include, but are not limited to, Economic Price Adjustment (EPA) and Reopener clauses.

(3) If the new clause may be useful on a repetitive basis to other acquisitions throughout NAVAIR, AIR-2.1.1 will forward the proposed clause to AIR-2.1 for approval. Once approved, the new clause will become a standard clause to be included in the NAVAIR Clausebook and SPS.

d. Exceptions and Deviations. In competitive procurements, if a proposed new or revised clause is determined to have a significant cost or administrative impact on offerors, the clause must be processed in accordance with DFARS 201.304 and NMCARS 5201.304(4)(B)(b). If a proposed new or revised clause constitutes a deviation from the FAR/DFAR, the clause must be processed in accordance with FAR 1.4 and DFARS 201.4.

8. Policy for Use of Other Agency Clauses. If a specific acquisition requires the use of a standard clause from another government agency, the clause shall be used verbatim, in full text, with the appropriate agency clause number and title (e.g., 52.245-9001, "Use of Government Facilities on a Rent-Free Basis", Air Force FAR Supplement). If another agency's clause must be modified or altered beyond approved agency procedures, the clause shall be treated in accordance with paragraph 7.c.(2) and (3) as a new NAVAIR clause.



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Distribution:

All Contracts Competency Instructions can be found on:
<https://contracts.navair.navy.mil/>